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**HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2361 OF 2005.

1. The Chief Executive Officer,  
Bhimjyoti Vidyalaya, Ramabai Amedkar  
Nagar, Ghatkopar, Mumbai 75.

2. Shivkrupa Shikshan Prasarak  
Mandal, Through Secretary. ..Petitioners

Versus.

1. Presiding Officer,  
School Tribunal, Mumbai.

2. Namdeo Nemji Latpate,  
Gautam Utkarsh Chawal,  
Rambai Ambedkar Ngr,  
Ghatkopar, Mumbai - 75. ..Respondents.

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V. N. Sagare for for the petitioners.

Ranjana Todankar for the respondent no.2.

**CORAM: S.B.MHASE, J.  
DATE : AUGUST 7, 2006.**

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1. Heard learned counsel appearing for both sides. This petition is directed as against the order dated 4.9.2004 passed by the School Tribunal Bombay in Appeal No. MUM/75/02. The present petitioner no.1 is a Chief Executive Officer of Bhimjyoti Vidyalaya while petitioner no.2 is Shivkrupa Shikshan Prasarak Mandal. Petitioner No.2 is a Trust which was running Bhimjyoti Vidyalaya. The respondent No. 2 was a teacher appointed in the

said school. Respondent No.1 is a Presiding Officer of the School Tribunal.

2. Petitioner Nos. 1 & 2, by their order dated 19.8.2002 terminated the services of the respondent no.2. The said order of termination of services was challenged by the respondent no.2 before the School Tribunal - respondent no.1. While the said appeal was pending, the recognition granted to the said school was withdrawn by the Education Department, i.e., Government of Maharashtra. Under these circumstances, when it was found by the respondent no.2 that even if the appeal is allowed and termination is held to be bad the re-instatement is not possible, because the school run by the petitioner nos. 1 & 2 is closed. Therefore, respondent no.2 submitted an amendment application stating therein that while granting re-instatement in his favour in a pending appeal before the School Tribunal, the School Tribunal shall further direct that the name of the respondent no.2 shall be treated as a surplus teacher under rule 25A of the M.E.P.S. Rules and the Education Officer shall maintain his name as a surplus teacher for re-employment in other schools either run by the petitioner or by other managements. Said amendment application was allowed

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by School Tribunal byu order dated 4.9.2004.

3. Being aggrieved by the said order permitting amendment, the present petition has been filed. In fact, when the petitioners have closed their school in view of the withdrawal of recognition they have no cause to challenge the said amendment, but that shows the vindictive nature of the petitioners. Therefore, no interference is called for. Petition deserves to be dismissed with costs and it is accordingly dismissed. Petitioner shall pay costs of Rs.5,000/- to the respondent no.2. Rule made absolute.

**(S.B.MHASE, J.)**

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